



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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March 4, 1997  
AO-97-07

Joseph M. Stornaiuolo, Chairman  
Political Action Committee for Employees of the  
Massachusetts Port Authority  
P.O. Box 285202  
East Boston, MA 02128

Re: Methods of increasing PAC membership and expanding  
PAC membership benefits

Dear Mr. Stornaiuolo:

This letter is in response to your recent request for an  
advisory opinion.

The Political Action Committee for Employees of the  
Massachusetts Port Authority (the PAC) was originally organized  
with OCPF in January 1994 as "Teamsters Local #157 Political  
Action Committee." Its purpose was "the collection and  
disbursement of funds for the betterment of Teamsters Local  
#157 members (active and retired)." In 1995, the PAC became  
independent of Local 157 and opened its membership to employees  
of Massport who are not in the Local. The PAC raises funds  
through monthly membership dues. Dues are used to pay for  
lobbying services and to make campaign contributions to  
candidates. Although you are currently employed by Massport,  
the Treasurer is a Massport retiree.

You have stated that only Massport employees and retirees  
may join the PAC and that membership is reserved for persons  
who pay monthly dues of \$6.40 (\$83.20 per year).<sup>1</sup> Your  
questions relate to section 13 of chapter 55 of the General  
Laws, which prevents persons who are employed by the state or  
any of its subdivisions from soliciting or receiving funds for  
political purposes, and section 14, which prohibits political  
fundraising in public buildings.

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<sup>1</sup> The PAC's campaign finance reports do not contain the  
name and residential address of individual PAC members. To the  
extent members pay more than \$50 per year in dues to the PAC,  
the PAC must, however, attach a list of members' names and  
addresses to the reports filed with this office. See M.G.L. c.  
55, s. 18. You should contact your auditor, Gregory Mann, for  
more information.

## I. General Discussion

M.G.L. c. 55, s. 13 states, in pertinent part:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purposes whatever . . . [emphasis added].

Section 13 prohibits a public employee's participation in political fund-raising activities. Public employees may not directly solicit or receive monies for political purposes. In addition, public employees may not indirectly solicit or receive such monies. The prohibition against indirect fundraising means that "what a public employee can not do directly (ask a friend for a contribution) can not be done in a 'roundabout' or indirect manner (help someone else to ask the employee's friend)." See AO-93-10 and IB-92-01.

Employees of the Massachusetts Port Authority are subject to the provisions of sections 13-17 of the campaign finance law. See Section 179 of Chapter 655 of the Acts of 1989.

This office has advised that section 13 is designed "to prohibit activities and behavior which a public employee can not engage in directly or which would lead a reasonable person to conclude that a public employee is or may be soliciting funds for a political purpose . . . a public employee should refrain from any activity which indicates support in a material way for the fundraising efforts of a candidate or political committee." See AO-93-01 and IB-92-01. For example, the prohibition means that a public employee may not allow his name to appear on the letterhead of a fund-raising letter or be the featured speaker at a fund-raising event. See AO-84-02 and AO-90-04. In addition, the public employee's involvement in an event may not be used as a "draw" encouraging political fundraising efforts. See AO-91-25.

Section 13 does not apply to retirees because retirees are not "employed for compensation." Such persons remain subject, however, to section 14 which states that "no person shall in any building or part thereof occupied for state, county or municipal [i.e., "governmental"] purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen." This provision would apply in Massport buildings. The PAC's treasurer, therefore, and other members who are retirees, may not solicit or receive contributions in a building occupied for governmental purposes.

The campaign finance law defines a "contribution" as "anything of value" given to a candidate or political committee. See M.G.L. c. 55, s. 1. Dues paid by members of a political committee to that committee are contributions to the committee.

With this statutory framework in mind, we can now turn to your specific questions, which you have divided into two categories: "membership issues" and "expanding membership benefits."

## II. Specific Questions

### A. "Membership Issues"

1. Can this organization, which is available only to Massport employees and retirees for membership and receives 100% of its funding from monthly membership dues, be able to post membership information including dues and applications to join on bulletin boards throughout Massport for its employees knowledge?

No. If the PAC posts information about membership or dues in a Massport building, it would be soliciting for political purposes in a building occupied for governmental purposes.

2. Can Advisory Board Representatives speak with non-member employees in their respective departments on the merits of joining this organization and issuing membership applications to them on the spot if requested?

No. Although PAC representatives can speak with fellow employees in their respective departments about the PAC, representatives should neither urge fellow employees to join nor issue membership applications. To become a member, an employee would have to pay dues, i.e., the employee would have to make a contribution. Therefore, suggesting that a fellow employee should join the PAC would be a solicitation prohibited by section 13.

3. Can the Chairman or Treasurer speak at the different meetings of Massport employees unions on joining this organization?

The treasurer, a retired Massport employee who does not receive compensation from the state or any of its subdivisions, is not subject to section 13. He may encourage employees to join the PAC if the meetings do not take place in Massport or any other public buildings. On the other hand, you or any other person subject to section 13 should not speak at a meeting, regardless of its location, if the purpose of the meeting is to solicit persons to submit membership applications.

4. Can this organization hold a Massport-wide membership drive campaign to seek new members?

Yes. You should note, however, that if a solicitation letter is sent to prospective members, it should not be signed by you or any other employee of Massport.

In addition, the names of Massport employees who are members of the PAC should not appear on the letterhead or elsewhere in a solicitation letter. Allowing one's name to be used in such a manner would indicate support by the employee for the fundraising efforts of the PAC. See IB-92-01.

Finally, a fundraising letter sent to Massport employees should be sent to the residential address, rather than the work address, of the employee.

5. Would this organization's Chairman be able to negotiate with the Massport Authority to insert a membership information package into the new employee package which contains all organizations, charities and insurance options that the employee has the opportunity to join?

No, assuming that one of the organizations which would be referenced in the information package would be the PAC. Public resources may not be used to advance the interests of a political committee. See Anderson v. The City of Boston, 376 Mass. 178 (1978). In addition, information soliciting membership in a PAC may not be distributed in a building occupied for state, county or municipal purposes.

You may, of course, urge Massport to advise new employees about organizations which are not political committees.

6. Based on the organizational structure and monthly dues funding, was this organization registered incorrectly in 1993 and 1995 and if so what are the correct procedures and laws that I should have this organization adhere in its daily operations?

No. A "political committee" is defined as "any committee, association, organization or other group of persons . . . which receives contributions [including dues from its members] or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates . . . ." See M.G.L. c. 55, s. 1. A "political action committee" is a type of political committee which contributes to a number of different candidates. Id.

Given the nature of the PAC's expenditures, the group appears to have properly registered as a PAC.

#### **B. "Expanding Membership Benefits"**

You have asked a series of questions suggesting that in addition to making political contributions, the PAC's Board would like to provide a range of benefits to PAC members. Specifically, you have asked if the PAC may establish a

scholarship fund for members' children, as well as retirement and disability funds for members.

The campaign finance law states that political committees may not use funds received from contributors for any person's "personal use." See M.G.L. c. 55, s. 6 and 970 CMR 2.06. PACs exist primarily to make contributions to candidates not to provide membership benefits of the kind suggested in your letter to persons who contribute to the PAC. Such membership benefits, unlike a subscription to a PAC newsletter, would be considered to be provided primarily for the recipient's "personal use."

In addition, a "contribution" is defined in the campaign finance law as "a contribution . . . for the purpose of influencing the nomination or election" of a candidate or candidates or for the purpose of promoting or opposing a question submitted to the voters. M.G.L. c. 55, s. 1. Contributions given for the purpose of creating a scholarship fund are not also given to influence the election of candidates, and therefore a contribution to a scholarship fund is not within the definition of "contribution" to a political committee.

It would appear from your letter that the PAC's Board members, in addition to wanting to make contributions to candidates, want the PAC to be an organization which provides personal membership benefits. PACs are not created for that purpose. To the extent the Board members want to create that type of organization, they should form a separate non-political group to provide such benefits for members. The PAC could continue to support candidates from contributions received by the PAC for that purpose. Contributors could contribute to either or both organizations.

This opinion has been rendered solely on the basis of the representations in your letter and in your telephone conversation with OCPF staff, and solely in the context of M.G.L. c. 55.

Please do not hesitate to contact this office should you have additional questions.

Sincerely,



Michael J. Sullivan  
Director